

NICHOLAS A. TRUTANICH
United States Attorney
Nevada Bar Number 13644
JESSICA OLIVA
Assistant United States Attorney
501 Las Vegas Boulevard South, Suite 1100
Las Vegas, Nevada 89101
Tel: 702.388.6268/ Fax: 702.388.6418
jessica.oliva@usdoj.gov
Attorneys for the United States

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

BILLY JOE WEST,

Defendant.

Case No. 2:20-mj-00217-DJA

**Stipulation to Extend Deadlines to
Conduct Preliminary Hearing and
File Indictment (Second Request)**

IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A. Trutanich, United States Attorney, and Jessica Oliva, Assistant United States Attorney, counsel for the United States of America, and David R. Fischer, Esq., counsel for Defendant Billy Joe West, that the Court vacate the preliminary hearing scheduled for May 4, 2020, at 4:00 p.m. and reschedule the hearing for a date and time convenient to this Court, but no sooner than 30 days from the currently scheduled date. This request requires that the Court extend two deadlines: (1) that a preliminary hearing be conducted within 21 days of a released defendant's initial appearance, *see* Fed. R. Crim. P. 5.1(c); and (2) that an information or indictment be filed within 30 days of a defendant's arrest, *see* 18 U.S.C. § 3161(b).

1 This stipulation is entered into for the following reasons:

2 1. Under Federal Rule of Criminal Procedure 5.1(c), the Court “must hold the
3 preliminary hearing within a reasonable time, but . . . no later than 21 days [after the initial
4 appearance] if [the defendant is] not in custody”

5 2. However, under Rule 5.1(d), “[w]ith the defendant’s consent and upon a
6 showing of good cause—taking into account the public interest in the prompt disposition of
7 criminal cases—a magistrate judge may extend the time limits in Rule 5.1(c) one or more
8 times”

9 3. Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), “[a]ny
10 information or indictment charging an individual with the commission of an offense shall be
11 filed within thirty days from the date on which such individual was arrested or served with a
12 summons in connection with such charges. If an individual has been charged with a felony
13 in a district in which no grand jury has been in session during such thirty-day period, the
14 period of time for filing of the indictment shall be extended an additional thirty days.”

15 4. Defendant needs additional time to review the discovery and investigate
16 potential defenses to prepare for the preliminary hearing.

17 5. Moreover, the parties have entered into negotiations in an attempt to
18 promptly resolve this case and reduce the judicial and government resources required by
19 this case. The defense requires additional time to adequately advise Defendant regarding
20 any plea negotiations.

21 6. The additional time requested herein is not sought for the purposes of delay,
22 but to allow counsel for Defendant sufficient time to effectively and thoroughly research and
23 prepare and to determine whether to proceed with a preliminary hearing and indictment or
24 to resolve this case through negotiations.

7. Accordingly, the parties jointly request that the Court schedule the preliminary hearing in this case no sooner than 30 days from the currently scheduled date.

8. Defendant is out of federal custody, agrees to the extension of the 21-day deadline imposed by Rule 5.1(c) and the deadline imposed by 18 U.S.C. § 3161(b), waives any right to remedies under Rule 5.1(c) or 18 U.S.C. § 3161(b), and requests that the time between Defendant's initial appearance on March 23, 2020, and the rescheduled preliminary be excluded in computing the time within which an information or indictment must be filed under 18 U.S.C. §3161(b).

9. The parties agree to the extension of these deadlines.

10. Accordingly, the additional time requested by this stipulation is (a) allowed under Federal Rule of Criminal Procedure 5.1(d); and (b) excludable in computing the time within which the defendant must be indicted and the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv).

11. This is the second request for an extension of the deadlines by which to conduct the preliminary hearing and to file an indictment.

DATED this 13 day of April, 2020.

Respectfully submitted,

NICHOLAS A. TRUTANICH
United States Attorney

/s/ David R. Fischer
DAVID R. FISCHER, ESQ.
Counsel for Defendant
BILLY JOE WEST

/s/ Jessica Oliva
JESSICA OLIVA
Assistant United States Attorney

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 BILLY JOE WEST,

7 Defendant.
8

Case No. 2:20- mj-00217-DJA

**Order on Stipulation to
Continue Preliminary Hearing and
Deadline to Indict Defendant**

9 Based on the stipulation of counsel, good cause appearing, and the best interest of
10 justice being served; the time requested by this stipulation being excludable in computing
11 the time within which the defendant must be indicted and the trial herein must commence
12 pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), and Federal Rule of
13 Criminal Procedure 5.1, considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv):

14 IT IS THEREFORE ORDERED that the preliminary hearing currently scheduled
15 for May 4, 2020 at the hour of 4:00 p.m., be vacated and continued to Friday, June 12,
16 2020 at the hour of 4:00 p.m.

17 DATED: April 14, 2020

18
19 

20 HONORABLE DANIEL J. ALBREGTS
21 UNITED STATES MAGISTRATE JUDGE
22
23
24